

# EXHIBIT 1

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December 1, 2021

**VIA EMAIL**

Dawn Dempsey  
Valve Corporation  
10400 NE 4th Street, Suite 1400  
Bellevue, WA 98004  
(425) 889-9642  
[dmca@valvesoftware.com](mailto:dmca@valvesoftware.com)

**Re: Notice of Claimed Infringement re: *Myth of Empires***

Dear Ms. Dempsey,

We represent Wildcard Properties LLC d/b/a Studio Wildcard and Snail Games USA Inc. (collectively "SWC"), the developer and publisher (respectively) of the video game *Ark: Survival Evolved*.

**This letter constitutes a "notice of claimed infringement" to Valve Corporation pursuant to the Digital Millennium Copyright Act ("DMCA"), 17 U.S.C. section 512(c)(3), better known as a DMCA "takedown" notice.**

Valve is offering for download, on its Steam Platform, a videogame titled *Myth of Empires*. According to the Valve website page for the game, the developer is a company called Angela Game. Based on our investigation, the game appears to have been built with trade secret source code copied and stolen from SWC. Valve's distribution of the video game *Myth of Empires* is thus facilitating trade secret misappropriation and copyright infringement.

SWC first published *Ark: Survival Evolved* on June 2, 2015, for the Windows platform on Steam, and subsequently by August 29, 2017 for Mac OS, Xbox One, and PlayStation 4 platforms. In 2018, SWC published additional versions of *Ark: Survival Evolved* for the Nintendo Switch and Android iOS. The source code for *Ark: Survival Evolved* is protected by U.S. copyright law pursuant to Copyright Registration Nos. TX0008844750, TX0008844750, and TX0008850190. The source code was also subject to reasonable measures to maintain its secrecy, including

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through employment contracts that prohibited SWC’s employees from using the code for any purpose other than assigned work and from disclosing the code to third parties.

In 2020, at least one employee of SWC's parent corporation (Snail Games China) who previously had access to the source code for *Ark: Survival Evolved* left to form Angela Game which, as noted above, is the developer of *Myth of Empires*. Accordingly, when *Myth of Empires* was released on November 18, 2021, SWC became understandably concerned because of large-scale similarities between *Ark: Survival Evolved* and *Myth of Empires*. This similarity extended to features that could not be explained through independent development, such as the use of *identical* gameplay mechanics not found in other games.

To investigate, SWC compared code “headers” found in the executable file for *Myth of Empires* to the code used in *Ark: Survival Evolved*. A preliminary analysis is attached as **Exhibit A**. SWC’s analysis confirms that its concerns are well-founded: *Myth of Empires* was built using source code copied and stolen from SWC. The analysis reveals *hundreds* of matching “class,” “variable,” and “function” names.

Given the nature and extent of the copying, this cannot be a coincidence. For example, both games use hundreds of *arbitrary* yet *identical*, or minimally renamed, variable names such as “bOnlyUseExpireTimeMultipliersIfActivated” and “SpawnInventoryOnDestructionLifeSpan.” It is simply unbelievable that so many unnecessary similarities in variable, class, and function names can be explained by “random chance.” This is a textbook case of copyright infringement and trade secret misappropriation.

Please be advised that if Valve does not take down *Myth of Empires*, then Valve may be liable for both indirect copyright infringement and trade secret misappropriation. *See, e.g. Graduation Sols. LLC v. Luya Enter. Inc.*, 2020 WL 9936697, at \*6 (C.D. Cal. May 5, 2020) (denying motion to dismiss and allowing lawsuit to proceed where “There is no question that Luya committed intentional acts in selling graduation apparel via its Websites and that those sales of products using Plaintiff’s allegedly misappropriated trade secrets and infringed copyright constitute the basis of Plaintiff’s claims.”); *see also A&M Recs., Inc. v. Napster, Inc.*, 239 F.3d 1004, 1022 (9th Cir. 2001) (“In the context of copyright law, vicarious liability extends beyond an employer/employee relationship to cases in which a defendant has the right and ability to supervise the infringing activity and also has a direct financial interest in such activities.”) (internal quotation omitted).

Note also that the DMCA offers a defense, where available, only to copyright claims. It does not insulate anyone against claims for trade secret misappropriation. This is not SWC’s preferred course of action. But we would be remiss if we did not mention it.

Accordingly, Studio Wildcard and Snail Games USA Inc. hereby formally request that Valve take down all versions of the game titled *Myth of Empires* from Valve’s Steam Platform because *Myth of Empires* is an unauthorized derivative work built on source code unlawfully copied and misappropriated from SWC’s *Ark: Survival Evolved*.

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Additionally, and pursuant to the DMCA (17 U.S.C. § 512(c)(3)), Studio Wildcard and Snail Games USA Inc. hereby state (or re-state) the following:

1. Studio Wildcard and Snail Games USA Inc. have authorized me to submit this notice of claimed infringement.
2. Studio Wildcard and Snail Games USA Inc. own registered copyrights in their video game *Ark: Survival Evolved*, which has been registered with the copyright office and is covered by copyright registration numbers TX0008844750, TX0008844750, and TX0008850190. *Ark: Survival Evolved* may be found on Valve’s Steam Platform at this URL: [https://store.steampowered.com/app/346110/ARK\\_Survival\\_Evolved/](https://store.steampowered.com/app/346110/ARK_Survival_Evolved/).
3. My clients’ copyrights in *Ark: Survival Evolved* are being infringed by the video game *Myth of Empires*, which may be found on Valve’s Steam Platform at this URL: [https://store.steampowered.com/app/1371580/Myth\\_of\\_Empires/](https://store.steampowered.com/app/1371580/Myth_of_Empires/).
4. Studio Wildcard and Snail Games USA Inc. may be contacted through me, and I am available at the following address, phone number, and email address:

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Quinn Emanuel Urquhart & Sullivan LLP  
865 South Figueroa Street, 10th Floor  
Los Angeles, California 90017  
(213) 443-3675  
[robertschwartz@quinnemanuel.com](mailto:robertschwartz@quinnemanuel.com)

5. Studio Wildcard and Snail Games USA Inc. have a good faith belief that *Myth of Empires* is infringing Studio Wildcard and Snail Games USA Inc.’s copyrights in *Ark: Survival Evolved*. Studio Wildcard and Snail Games USA Inc. have a good faith belief that *Myth of Empires* was built by: (1) stealing the *Ark: Survival Evolved* source code and (2) using the stolen source code as the gameplay foundation for *Myth of Empires*. Key employees of the developer of *Myth of Empires* worked at the Chinese parent of Snail Games USA Inc. and at least one of them had credentials that enabled them to access the *Ark: Survival Evolved* source code.

I state, under penalty of perjury, that the information contained in this notice is accurate, and that I am authorized to act on behalf of Studio Wildcard and Snail Games USA Inc.

The foregoing is not a complete statement of the facts relevant or the law governing this matter. All of SWC’s rights, claims, and remedies are hereby reserved.



Robert M. Schwartz

# Exhibit A

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